

Remarks

Claims 1-21 are pending in the application.

Claims 1 and 6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 13 of U.S. Patent No. 7,305,623 (hereinafter '623).

Claims 1-2, 5-8 are rejected under 35 U.S.C. 102(a, e) as being anticipated by Despotidis et al. (hereinafter Despotidis) U.S. Patent No. 7,305,623 issued December 4, 2007 and filed December 3, 2001 or, in the alternative, under 35 U.S.C. 103(a) as obvious over Despotidis in view of Planas et al. (hereinafter Planas) U.S. Patent No. 6,112,015.

Claims 3-4, 9-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Despotidis in view of Planas.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent

form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Claim Amendments

Claims 6 – 21 have been amended. New claim 22 has been added. No new matter has been entered.

Double Patenting Rejection

Claims 1 and 6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 13 of '623.

Since a double patenting rejection depends on the claims of the application, until Applicants have claims that are allowable but for the double patenting rejection, Applicants cannot evaluate the correctness of any suggested double patenting rejection. As such, Applicants also cannot determine any arguments that might be put forth against the suggested double patenting rejection. Therefore, as this double patenting rejection is premature, Applicants will address such a ground of rejection once all other grounds of rejection are overcome.

Rejection Under 35 U.S.C. 102

Claims 1-2, 5-8

Claims 1-2, 5-8 are rejected under 35 U.S.C. 102(a, e) as being anticipated by Despotidis. The rejection is traversed.

Anticipation requires the presence in a single prior art disclosure of each and every element of the claimed invention, arranged as in the claim.

Despotidis fails to disclose each and every element of Applicants' claim 1, as arranged in the claim.

Specifically, Despotidis fails to teach or suggest at least the limitation of "graphically representing the status of cross-connection links within said network elements as respective icons displayed on said respective network element objects," as claimed in Applicants' claim 1.

Rather, as noted in Applicants' previous response, Despotidis describes graphic representation of communication links between network elements. The graphical representation of communication links between network elements, as disclosed in Despotidis, does not teach or suggest graphically representing status of cross-connection links within network elements, as claimed in Applicants' claim 1.

In the Office Action, the Examiner asserts that specific portions of Despotidis (namely, Col. 4, Lines 25 – 67 and Col. 5, Line 57 – Col. 6, Line 11) discloses Applicants' limitation of graphically representing the status of cross-connection links within network elements as icons displayed on the respective network element objects. Applicants respectfully disagree.

The first portion of Despotidis cited by the Examiner (namely, Col. 4, Lines 25 – 67) does not teach or suggest graphically representing status of cross-connection links within network elements, as claimed in Applicants' claim 1. Rather, this portion of Despotidis describes the manner in which a user selects spare channels of a communication link between network elements in order to provision a communication path between a start-node and an end-node. This portion of Despotidis is devoid of any teaching or suggestion of representing the status of cross-connection links within said network elements, much less representing the status of cross-connection links within network elements as respective icons displayed on the respective network element objects, as claimed in Applicants' claim 1.

The second portion of Despotidis cited by the Examiner (namely, Col. 5, Line 57 – Col. 6, Line 11) does not teach or suggest graphically representing status of cross-connection links within network elements, as claimed in Applicants' claim 1. Rather, this portion of Despotidis merely includes general statements indicating that a graphical connectivity feature allows a workstation user to graphically see communication links,

selected channels and network elements or nodes at the ends of the selected links during provisioning of circuits, and, further, that displayed graphical elements or icons representing physical elements are updated dynamically. This portion of Despotidis is devoid of any teaching or suggestion of representing the status of cross-connection links within network elements as respective icons displayed on the respective network element objects, as claimed in Applicants' claim 1.

As such, the independent claim 1 is not anticipated by Despotidis and, thus, claim 1 is patentable under 35 U.S.C. 102(a,e). Independent claim 6 recites relevant limitations similar to those recited in independent claim 1 and, as such, for at least the same reasons discussed above, independent claim 6 also is not anticipated by Despotidis and is patentable under 35 U.S.C. 102(a, e). Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also patentable over Despotidis.

Accordingly, claims 1-2 and 5-8 are patentable under 35 U.S.C. 102(a, e) over Despotidis. Therefore, the rejection should be withdrawn.

Rejection Under 35 U.S.C. 103

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be

sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in KSR Int'l Co. v. Teleflex, Inc., 126 S. Ct. 2965 (2006); see also MPEP §2141.

Claims 1-2, 5-8

Claims 1-2, 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Despotidis in view of Planas. The rejection is traversed.

The Office Action failed to establish a *prima facie* case of obviousness, because the combination of Despotidis and Planas fails to teach or suggest all the claim limitations.

As described hereinabove, Despotidis fails to teach or suggest at least the limitation of “graphically representing the status of cross-connection links within said network elements as respective icons displayed on said respective network element objects,” as claimed in Applicants’ claim 1.

Furthermore, Planas fails to bridge the substantial gap between Despotidis and Applicants’ claim 1.

Planas fails to teach or suggest at least the limitation of “graphically representing the status of cross-connection links within said network elements as respective icons displayed on said respective network element objects,” as claimed in Applicants’ claim 1.

Rather, Planas discloses a system for graphically representing state and status information for network objects, in which icons may be displayed on network element objects to provide an indication as to the type of network element that is represented by the network element object (e.g., a switching node, a cross-connect node, an add-drop multiplexing node, or other node types) or a capacity of the network element that is represented by the network element object. Specifically, Planas states:

“A different basic icon shape is used to represent each of the three types of network object, namely nodes, links, and cards within a shelf. Referring now to FIG. 2a, a basic icon is shown which consists of a light grey coloured square icon used to represent a node. This will be referred to as a node icon. Identification symbols and numbers may be added to the basic icon to identify the type and capacity of the node it represents. A preferred

set of identification symbols which includes some symbols recommended by the ITU-T is shown in FIG. 2e and several node icons identified with these symbols are shown in FIG. 2f. Referring to FIG. 2e, the ITU-T (International Telecommunications Union-Telecommunications Standardization Sector) based symbols include a square encompassing an "X" 12 representing a switch or a cross connect, a solid diamond 13 representing a transport node, a pair of solid triangles 14 representing a transport add-drop multiplexer, and a diamond separated into four squares 15 representing a transport cross connect. Suggested new symbols include a triangle with a series of parallel lines 16 representing an access node, a diamond which is solid except for a square hole in its centre 17 representing a regenerator, a diamond with a vertical slot in its bottom half to represent an LTE (line terminating equipment) and a question mark symbol 19 to represent an unknown network element. In some circumstances a symbolic node icon may be used which differs from the square icon depicted in FIG. 2a so as to be more representative of the node it represents.”

[Planas, Col. 5, Lines 13 – 41, Emphasis added].

In other words, in the system disclosed in Planas the icons displayed on the node icons do not represent the status of cross-connection links within those nodes. Rather, from the cited portion of Planas provided hereinabove, it is clear that the icons displayed on the node icons are merely node type icons that represent the type of network element that is represented by the node type icon (e.g., using a square encompassing an “X” to represent a switch node or cross-connect node, and so forth). Thus, Planas fails to teach or suggest at least the limitation of “graphically representing the status of cross-connection links within said network elements as respective icons displayed on said respective network element objects,” as claimed in Applicants’ claim 1.

In the Office Action, the Examiner cites specific portions of Planas (namely, Figures 2e, 2f, 15, and 21), asserting that the cited portions of Planas disclose Applicants’ limitation of “graphically representing the status of cross-connection links within said network elements as respective icons displayed on said respective network element objects.” Applicants respectfully note that Figures 2e and 2f depict the node type icons for purposes of defining the node type icons and, further, that Figures 15 and 21 merely depict examples of graphical depiction of network element objects using the node type icons from Figures 2e and 2f. As described hereinabove, the node type icons depicted in Figures 2e, 2f, 15, and 21 merely represent the type of network element that is

represented by the node type icon, not cross-connection links within the network element. Thus, the cited portion of Planas fails to teach or suggest at least the limitation of “graphically representing the status of cross-connection links within said network elements as respective icons displayed on said respective network element objects,” as claimed in Applicants’ claim 1.

As such, independent claim 1 is patentable under 35 U.S.C. 103(a) over Despotidis in view of Planas. Independent claim 6 recites relevant limitations similar to those recited in independent claim 1 and, as such, for at least the same reasons discussed above, independent claim 6 also is patentable under 35 U.S.C. 103(a) over Despotidis in view of Planas. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also patentable under 35 U.S.C. 103(a) over Despotidis in view of Planas.

Accordingly, claims 1-2 and 5-8 are patentable under 35 U.S.C. 103(a) over Despotidis in view of Planas. Therefore, the rejection should be withdrawn.

Claims 3-4 and 9-21

Claims 3-4, 9-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Despotidis in view of Planas. The rejection is traversed.

This ground of rejection applies only to dependent claims and is predicated on the validity of the rejection under 35 U.S.C. 103 given Despotidis in view of Planas. Since the rejection of independent claims 1 and 6 under 35 U.S.C. 103 given Despotidis in view of Planas has been overcome, as described hereinabove, this ground of rejection cannot be maintained.

Therefore, the rejection should be withdrawn.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 842-8110 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 1/8/09

A handwritten signature in cursive script, reading "Michael S. Bentley", written over a horizontal line.

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